Public Notice

US Army Corps
of Engineers
Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Number: 200550618
Date: March 7, 2006
Comments Due: April 6, 2006

SUBJECT: The U.S. Army Corps of Engineers, Sacramento District, (Corps) and Utah Division of Water Quality are evaluating a permit application for the construction of Utah Forest Highway (FH) 39, Sevenmile Gooseberry Road, Phase 2 Roadway Reconstruction Project. The 29.5 mile roadway reconstruction project will be constructed in three phases. This public notice is for Phase 2 of the project, an approximately 8.7 mile portion of the 29.5 mile roadway. A description of Phase 1 and 3 of the project is summarized below.

The Federal Highway Administration (FHWA), Central Federal Lands Highway Division (CFLHD) is the lead federal agency for the project. An Environmental Assessment (EA) was completed for the project in December 1995 and a Finding of No Significant Impact (FONSI) was issued in 1997. The EA has been excerpted to provide information pertinent to the Section 404 Regulatory process.

Phase 2 of the project would result in impacts to approximately 1.186 acres of Waters of the United States, including 1.064 acres of wetlands and 0.122 acres of non-wetland Waters of the United States. This notice is to inform interested parties of the proposed activity and to solicit comments. This notice may also be viewed at the Corps web site at http://www.spk.usace.army.mil/regulatory.html.

AUTHORITY: This application is being evaluated under Section 10 of the Rivers and Harbors Act of 1899 for structures or work in or affecting navigable waters of the United States and/or Section 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States.

APPLICANT: Federal Highway Administration Christopher Longley
Central Federal Lands Highway Division
12300 West Dakota Avenue
Lakewood, Colorado 80228-2583
720-963-3733

LOCATION: FH 39, also known as Sevenmile-Gooseberry Road, is located in Sevier County in central Utah, primarily within the Fishlake National Forest (FNF) as indicated on the attached Exhibit 1. Phase 2 of the project is located within the Gooseberry Creek and Mount Terrill United States Geologic Survey (USGS) 7.5 minute quadrangle maps. Phase 2 of the project begins just south of the Mt. Terrill Guard Station at Station 10+010.000 and ends at Station 23+654.221 near Twin Ponds (Exhibit 2). The project area primarily consists of the approximately 200-foot proposed ROW area between Station 10+010 and Station 23 + 654, an area of approximately 216 acres (87.41 hectares). The beginning point of the project at Station 10+010 is located within Section 27, Township 24 South, and Range 2 East (Mt. Terrill USGS quadrangle). The end point of the project at Station 23+654 is located within Section 25, Township 23 South and Range 2 East (Gooseberry Creek USGS quadrangle). A potential material source site is located at the Gates Lake Material Source Site on Gates Lake Road, approximately 1 mile from its intersection with Sevenmile Gooseberry Road at Station 16+106 (Mt. Terrill USGS quadrangle, Section 3 Township 24 South and Range 2 East).

PROJECT DESCRIPTION: The 29.5 mile roadway begins at the intersection of FH 42 (Fremont River Road) and FH 13 (Fish Lake Road) and proceeds northward to its junction with Interstate 70 (Exhibit 1). Public Lands Highway improvement programs are identified and programmed in multi-year programs based on the amount of money allocated to each State and the estimated cost of each project. They are planned as single and complete actions, as required by the National Environmental Policy Act (NEPA) and are often constructed under separate contracts or phases due to limits on yearly funding amounts. The size and cost of the FH 39, Sevenmile Gooseberry Road project require that it be constructed in three separate phases over a period of many years. Phases 1, 2, and 3 are shown on Exhibit 1.

The first phase (Phase 1) of the project included the reconstruction of 13.5 miles (21.9 km) of FH 39, from just south of Twin Ponds Road to just south of the I-70 interchange; Phase 1 was completed in 2005. The second phase (Phase 2) will continue reconstruction from Twin Ponds Road south toward the roadway s junction at FH 42, Fremont River Road. Phase 2 is scheduled for construction beginning in the spring of 2006. The second phase will reconstruct about 8.7 miles (14 km). The third phase of the project (Phase 3) will continue construction south to the junction of FH 42, Fremont River Road, and is 5.9 miles (9.5 km) in length. Phase 3 is scheduled for construction in 2010.

Based on available information, the purpose of the project is to:

1. To improve seasonal access to the FNF for recreational and other purposes;

2. To improve highway continuity and the economy of operation, maintenance, and safety for the transportation network serving the National Forest system and the surrounding communities; and

3. To reduce dust and erosion impacts to the surrounding area.

The following is a discussion of the project purpose and need, primarily summarized and excerpted from the EA.

Improve Access. One purpose for the road improvement is to aid access to the lands and waters in FNF for multiple-use activities. FH 39 provides access to the Fish Lake/Johnson Valley Reservoir Recreation Area. This area, a major recreation complex in south-central Utah, provides a wide variety of recreational opportunities, including sightseeing, wildlife viewing, picnicking, camping, hiking, fishing, boating, hunting, cross country skiing, snowmobiling, all-terrain vehicle (ATV) riding, and associated activities. The Great Western Trail can be accessed via FH 39. FH 39 also provides access to the FNF for other multiple uses, including timber harvesting, US Forest Service administrative purposes, access to private residences and lands, and grazing and range activities.

Improve Highway Continuity, Maintenance, and Safety. The existing road is narrow, with several areas of steep grades and switchbacks that discourage travel in passenger and recreational vehicles. The roadway is primarily gravel, although a few miles of the northern portion are paved. The reconstruction of the roadway would provide a wider roadway built to current standards which would safely accommodate cars and larger recreational vehicles allowing greater access and safety.

The roadway is often impassable in inclement weather and requires frequent maintenance. Wash boarding problems are common on the graveled portion of the roadway and the existing road is mechanically wearing for vehicles traveling on it. The paved roadway would decrease roadway maintenance efforts and costs and reduce vehicle wear.

Both of the other access roads to the Fish Lake/Johnson Valley Reservoir Recreation Area (FH 42 and FH 31) have already been reconstructed during separate projects. Thus, the implementation of the project would improve highway continuity in the general vicinity.

The entire length of the road would be designed to current safety standards and be signed, including special signs to alert drivers to specific conditions; thus, improving roadway safety.

Reduce Dust and Erosion. The proposed improvements and paving of FH 39 would reduce long-term dust and erosion impacts. Sediment, the predominant contaminant in the FNF, is delivered to streams through soil loss and streambank erosion. Gooseberry Creek runs along the northern 9 miles (14.5 km) of FH 39, and Sevenmile Creek is adjacent to or near the southern 6.2 miles (10 km). Several stream crossings and other drainages, which ultimately drain to Sevenmile, Gooseberry and other creeks, also exist throughout the road alignment. The current unsurfaced portions of the roadway and inadequacy of some of the drainage structures contribute to siltation and sedimentation during high runoff periods. Paving the road and improving drainage structures would reduce impacts from sedimentation.

ADDITIONAL INFORMATION:

Environmental Setting. A summary of the environmental setting from the EA appears below. FH 39 provides access to the Fish Lake/Johnson Valley Reservoir Recreation Area, which is a major recreation complex in the FNF. Dispersed recreation also occurs along the Sevenmile-Gooseberry Road. The lands adjacent to the road are predominantly administered by the FNF, and private landownership is concentrated around Phase 1 of the road project, with scattered private holdings along the Phase 2 segment.

The area surrounding FH 39 consists of mountain and lowlands with valley drainages. The vegetation consists primarily of sagebrush/grass on low relief foothills and flats with scattered pinyon-juniper forest. With increasing elevation, vegetation shifts to denser pinyon-juniper, then to dense stands of aspen, Engelmann spruce, Douglas-fir, blue spruce, white fir, and subalpine fir. Bands of dense riparian vegetation line the banks of most streams and tributaries. Photos of the project area appear in Exhibit 7.

Annual precipitation in the project area varies from 12 to 20 inches per year, and approximately 75% of this amount falls as snow between October April. The surrounding mountains receive relatively high precipitation, up to 30 inches per year.

Two delineations of waters of the U.S. (including wetlands) within the project area have been conducted, the first in August 1995 for the entire 29.5 mile FH 39 Sevenmile Gooseberry Road reconstruction project area (including Phases 1, 2, and 3), and the second in July of 2004 for Phase 2. A total of approximately 3.232 acres of jurisdictional areas have been identified within the Phase 2 portion of the project. The project mitigation site appears in Figure 3, Exhibit 3.

Waters of the U.S. occurring within the roadway ROW are listed in Table A-1, Exhibit 4 and are mapped on a USGS topographic base map (scale 1:24,000) in Exhibit 2. Waters of the U.S. are also depicted on aerial photograph base maps in Maps C-1 through C-10 (also in Exhibit 2).

Wetlands within the project area generally consist of emergent wetlands dominated by wet meadow species and scrub-shrub wetlands dominated by several species of willows.

For Phase 2, wetland types represented in the project area include:

High elevation wetland basins;
High elevation streams;
Lost Creek and Sevenmile Creek Valley slope wet meadows; and
Sevenmile Creek Valley bottom wetlands

For a description of each wetland type and function, refer to Table A-1, Exhibit 4.

Alternatives. Alternatives for the 29.5 mile Sevenmile Gooseberry Reconstruction project are summarized from the EA in the subsections below. Information provided by the applicant regarding alternatives specific to Phase 2 of the project are also summarized below.

Sevenmile Gooseberry Road Reconstruction Project Alternatives (Phases 1, 2, and 3). Four primary alternatives, plus five realignment alternatives, were initially considered for the Sevenmile Gooseberry Road Reconstruction Project (29.5 mile roadway). Two of the alternatives (A and B) and four realignment segments were analyzed in detail in the EA. Alternatives C and D, and one realignment segment (Slide Area) were considered but eliminated from detailed study. A summary appears below.

Alternative A: No Action. The road would be left in its existing condition and at the current maintenance level by the County. Federal Highway Trust Fund money that would be spent on this road could be used on another FHWA route in Utah. Environmental problems such as sedimentation in adjacent waterways and riparian areas due to erosion of the unpaved road surface would remain. Driving conditions would not be improved. Use of FH 39 by sightseers, hunters, recreationists, the general public, etc. would increase slowly over present use; increased use will occur with or without the proposed road improvements.

Alternative A would not preclude short-term, minor reconstruction activities by the County that would normally be part of the continuing operation of the existing roadway. Implementation of Alternative A is not considered irreversible.

Alternative B: Reconstruct and Pave (Proposed Project). The existing road would be reconstructed to a two-lane, asphalt paved road for the entire project length. Variable cut and fill slopes would extend on either side of the road depending on adjacent terrain. Additional curve widening would be required on sharp curves. The alignment would closely follow the existing road, with four realignment segments including: (1) Sevenmile Creek; (2) Switchbacks, (3) Salina Reservoir, and (4) Notel Motel. The fifth alignment in the slide area near Taylor Flat was eliminated from further consideration as discussed in the next further below.

Implementation of Alternative B is considered irreversible.

The following alternatives were eliminated from detailed study:

Alternative C: Partial Pave. The existing road would be improved only between the north end of the project and the Gooseberry Campground and Administrative Site, where the highest use on FH 39 occurs. South of that point, the road would remain in its existing condition. Alternative C does not fully meet the defined purpose and need of the project. In addition to not improving access to the Fish Lake/Johnson Valley Reservoir Area, maintenance costs, safety, and dust and erosion impacts would remain the same, or worse, on the unimproved portion of the road because the improvement from Interstate 70 to the Gooseberry Campground and Administrative Site would likely result in an increased travel volume on the remainder of the unimproved road.

Alternative D: Partial Pave and Reconstruct Gravel. The existing road would be reconstructed and paved, as in Alternative B, between the north end and the Gooseberry Administrative Site. South of Gooseberry Administrative Site, the road would be reconstructed with realignments and a gravel surface that would support paving in the future. This alternative was proposed for purposes of continuity: because the full length of the road would be improved and the terminus would be the same as for Alternative B. However, Alternative D does not fully meet the defined purpose and need of the project.

The water quality improvements realized with Alternative B would not be as notable for Alternative D because the gravel surface would continue to contribute dust and sediment to the adjacent streams. The maintenance efforts and costs for Alternative D would be higher than those for Alternative A or Alternative B. Complete gravel replacement would be needed on a 4- to 6-year cycle, and gravel resources are scarce in the area.

Realignment 5: Slide Area. This realignment was initially proposed to avoid two potentially unstable areas. It was eliminated from further consideration based on the results of a geotechnical study conducted by FHWA in November 1994 and August 1995. The proposed alignment would have taken the road closer to the Gooseberry Creek.

For the reasons noted above, Alternatives C and D and Realignment 5 were eliminated from detailed study. The alternatives therefore considered were either:

Alternative A: No Action
Alternative B: Reconstruct and Pave

Alternative A, No Action, does not meet the purpose and need of the project. Therefore, Alternative B, Reconstruct and Pave, was selected.

The proposed reconstruction of Phase 2 was revised during the design phase to minimize potential impacts to Waters of the U.S, including wetlands and non-jurisdictional riparian areas, including shifts in the alignment and reduction of culvert crossings, where possible, as discussed below.

Shifts in Alignment to Avoid and Minimize Wetland Loss.
During the design of Phase 2, shifts in the alignment were developed to avoid and minimize impacts to wetlands. A decrease in the total amount of impacts to wetlands was achieved by these design changes, reducing the total Corps jurisdictional impact area from approximately 1.477 acres to 1.186 acres (reducing impacts by approximately 0.29 acres).

Reduction in Size of Culvert Crossings.
The 50% design proposed that concrete box culverts would be used at Stations 11+650 (R13-1) and 13+055 (W14-2, Lost Creek). During the hydraulic analysis, an investigation was conducted to determine if pipe culverts could be used instead of concrete box culverts, to minimize construction area impacts. The investigation consisted of performing a HY8 analyses and ensuring that all design criteria will be satisfied if pipe culverts were used. Based on the analysis and given that the crossings are intermittent streams that don t support fisheries, it was determined that pipe culverts could be used at these locations to decrease impacts to Corps jurisdictional areas.

Mitigation. The Corps requires that applicants consider and use all reasonable and practical measures to avoid and minimize impacts to aquatic resources. If the applicant is unable to avoid or minimize all impacts, the Corps may require compensatory mitigation. CFLHD proposes to mitigate the approximately 1.186 acres of impacts to Waters of the U.S. occurring as a part of the Phase 2 portion of the project at the Sevenmile Gooseberry Mitigation Site (Exhibit 3). This site was established in 2005 to mitigate impacts associated with Phase 1 of the 29.5 mile Sevenmile Gooseberry Road reconstruction project.

The mitigation site is an 8 acre site which contained a 1,900 feet degraded reach of Gooseberry Creek. Intensive land use and a blocked culvert resulted in degradation of the stream, the riparian zone, and adjacent uplands. Mitigation implemented at the site includes habitat restoration, enhancement, and creation and consists of a combination of off-site and in-kind mitigation for stream and riparian impacts and off-site and out-of-kind mitigation for wetland impacts. Table A-2, Exhibit 5 shows the types and amounts of habitat to be developed at the mitigation site.

Table A-3, Exhibit 6, shows the mitigation ratios approved by the Corps and mitigation credit earned through development of the mitigation site. After accounting for Phase 1 construction impacts, 2.69 acres (1.09 hectares) of credit remains at the mitigation site to be used towards compensation for Phase 2 and 3 construction impacts. 1.186 acres of credit will be used for mitigation for Phase 2.

OTHER GOVERNMENTAL AUTHORIZATIONS: Water quality certification or a waiver, as required under Section 401 of the Clean Water Act from the Utah Division of Water Quality, is required for this project. The Utah Division of Water Quality intends to issue certification, provided that the proposed work will not violate applicable water quality standards. Projects are usually certified where the project may create diffuse sources (nonpoint sources) of wastes which will occur only during the actual construction activity and where best management practices will be employed to minimize pollution effects. Written comments on water quality certification should be submitted to Mr. William O.

Moellmer, Utah Division of Water Quality, 288 North 1460 West, Post Office Box 144870, Salt Lake City, Utah 84114-4870, on or before April 6, 2006.

HISTORIC PROPERTIES: No historic properties or any properties listed as eligible for inclusion in the National Register of Historic Places will be affected by Phase 2. Based on the available information (including applicant's report entitled Final Report, A Cultural Resource Investigation of Utah Forest Highway 39 in Sevier County, Utah), one prehistoric site was located within the area of potential effect for the 29.5 mile project route. This site was located within the Phase 1 portion of the project. However, it was not as extensive as previously indicated in the survey reports for the project. This site was auger tested, documented and recorded, per the request of the Utah Division State History (UDSH), State Historic Preservation Officer.

Pursuant to Section 106 of the National Historic Preservation Act, the Corps determined that the proposed project would have no effect on historic properties or on any properties listed or eligible for inclusion in the National Register of Historic Places. FHWA has completed Section 106 consultation in accordance with the National Historic Preservation Act.

ENDANGERED SPECIES: The project will not affect any Federally-listed threatened or endangered species or their critical habitat that are protected by the Endangered Species Act. The District Engineer has made this determination based on information provided by the applicant (summarized below) and on the Corps' preliminary review.

A Biological Evaluation (BE) of federal threatened, endangered and candidate species was conducted for the 29.5 mile project in 1995. The US Fish and Wildlife Service (USFWS) provided a Biological Opinion (BO) concurring with the evaluation and making a determination of no adverse impact with implementation of mitigation. In order to ensure the original evaluations were current for Phase 2 of the project, a second evaluation was prepared in 2005 to determine if:

1) Special status species had been added to or dropped from the lists of Federal protected species (USFWS Threatened, Endangered, Candidate species), State of Utah Sensitive Species and/or USDA Forest Service (USFS) Sensitive Species;
2) The status of any species had changed;
3) Any new data was available regarding the presence or absence of Federal protected species, State of Utah Sensitive Species, or USFS Sensitive Species; and
4) There were any changes in Federal protected species critical habitat.

As a result of the evaluations, it was determined that Phase 2 of the project will not affect any Federally-listed threatened or endangered species or their critical habitat.

The above determinations are based on information provided by the applicant and our preliminary review.

EVALUATION FACTORS: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the described activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the described activity, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the described activity will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people. The activity's impact on the public interest will include application of the Section 404(b)(1) guidelines promulgated by the Administrator, Environmental Protection Agency (40 CFR Part 230).
The Corps is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity.

Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

SUBMITTING COMMENTS: Written comments, referencing Public Notice 200550618, must be submitted to the office listed below on or before April 6, 2006:

James McMillan, Regulatory Project Manager
U.S. Army Corps of Engineers, Sacramento District
Utah Regulatory Office
533 West 2600 South, Suite 150
Bountiful, Utah 84010-7744
Email: james.m.mcmillan@usace.army.mil

The Corps is particularly interested in receiving comments related to the proposal s probable impacts on the affected aquatic environment and the secondary and cumulative effects. Anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state, with particularity, the reason(s) for holding a public hearing. If the Corps determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location. Please note that all comment letters received are subject to release to the public through the Freedom of Information Act. If you have questions or need additional information please contact the applicant or the Corps project manager, James McMillan, 801-295 8380, extension 17, james.m.mcmillan@usace.army.mil.

ATTACHMENTS:
Exhibit 1 - Figure 1, Vicinity Map

Exhibit 2 and 2a - Figure 2, Project Features and Delineated Areas; Maps C1 to C 10 Delineated Area and Impacts

Exhibit 3 - Figure 3, HMMP Gooseberry Crk, Habitat to be Enhanced, Restored, and Created)

Exhibit 4 - Table A-1, Fill Impacts to USACE Jurisdictional Areas and Riparian Areas

Exhibit 5 - Table A-2, Habitat Components and Size to be provided at the Mitigation Site

Exhibit 6 - Table A-3, Habitats to be Enhanced, Restored, or Created and Suggested Ratios and Mitigation Credits Earned

Exhibit 7 - Project Area Photographs.